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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/764,190

01/23/2004

Peter Fyler Lynch

9495

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27752

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10/18/2006

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
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CINCINNATI, OH 45224

EXAMINER

QUINN, COLLEEN M

ART UNIT

PAPER NUMBER

3634

DATE MAILED: 10/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/764,190

Applicant(s)

LYNCH, PETER FYLER

Examiner

Colleen M. Quinn

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3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-13,17 and 18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 4-13, 17 and 18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>1/23/04, 4/16/04 and 6/21/05</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 9th, 2006 has been entered.

Claim Objections

Claims 1 and 9 are objected to because of the following informalities: Various instances of improper claim language. Applicant is reminded that once an object is presented, any references to that object thereafter should be preceded with "said" rather than "a" or "the." Applicant is encouraged to review all claims and correct where appropriate.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4-13 and 17-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Heroy (US 3,669,278). Heroy discloses a shelf display apparatus for storing packages, comprising first and second vertical support members (vertical

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portions at opposite ends of the top member 13), where the lower ends (15) of the vertical support members are spaced apart and connected to a shelf (10) in a first plane (Figure 1). Connected between the vertical support members is a top support member (upper portions of 13), oriented in a plane parallel to the first plane (top section 13 is parallel to the first plane of the shelf), where the top support member has a non-linear portion extending over the length of the top member.

With respect to claim 4, the shape of the non-linear portions is shown to be curved (Figure 6).

With respect to claim 5, a first fastening mechanism (16) connects the lower portion (15) of the vertical support members to the shelf (10) in the first plane.

With respect to claim 6, the first fastening mechanism has horizontal bottom plate (20) juxtaposed to the shelf (10, Figure 3).

With respect to claim 7, the first fastening mechanism is a U-shaped bracket (note the shape of cut-out in 16 as best seen in Figures 2,4 &5), that is partially insertable (Figures 3 & 6) through a shelf.

With respect to claims 8 and 17 the first fastening mechanism is an engaging member, which has portion (25) that is inserted through a receiving area (11) of the shelf (10) configured for a display.

With respect to claim 9, a second fastening mechanism (16) joins the lower end (15) of the second vertical support member to the shelf (10).

With respect to claim 10, the second fastening mechanism has horizontal bottom plate (20) juxtaposed to the shelf (10).

With respect to claim 11, the second fastening mechanism is a U-shaped bracket (note the shape of cut-out in 16 as best seen in Figures 2,4 &5), that is partially insertable (Figures 3 & 6) through a shelf.

With respect to claims 12 and 18, the second fastening mechanism (16) is an engaging member, which has portion (25) that is inserted through a receiving area (11) of the shelf (10) configured for a display.

With respect to claim 13, the shelf display apparatus further comprises a substantially solid wall (12) being adjacent to the top support member and disposed between the first and second vertical support members, providing additional support for packages on the shelf (Figure 1). Applicant should note that, wall 12 is capable of being arranged at any point adjacent to apparatus 13, including the position claimed in Applicant's claim 13. Applicant should also note that the continuous wall (12) is seen as solid as described by Webster's II New Riverside Dictionary in which "solid" is defined as, *"without gaps, crevices or breaks."*

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant should also consider the shelf display apparatuses presented in both Radek (US 2,933,195) and Ingelson (US 2,747,959), both of which disclose key features of the applicant's claimed invention, including, top and vertical support members, fastening means, and solid walls disposed thereon.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Colleen M. Quinn whose telephone number is (571)


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272-6289. The examiner can normally be reached on 9:00AM-5:00PM Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on (571) 272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CMQ
10/12/06


Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600